



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

June 18, 1992

Mr. James Showen  
Senior Assistant City Attorney  
City of Tyler  
Legal Department  
P. O. Box 2039  
Tyler, Texas 75710

OR92-348

Dear Mr. Showen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, V.T.C.S. article 6252-17a. Your request was assigned ID# 16326.

The Tyler Police Department (the department) received an open records request for, *inter alia*, "[t]he original complaint filed against [a Tyler police officer] causing the officer to be placed on indefinite suspension." You state that you have released the complaint in question, deleting the names of certain police officers, because: 1) some of the statements made by the officer tend to defame one of his fellow officers, and 2) other statements in the complaint "currently form the basis of an investigation of wrongdoing by police officers within the Tyler Police Department and it is believed that public disclosure of the names of these persons would be detrimental to the ongoing investigation."

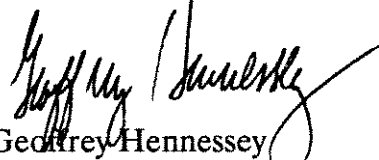
Although you raise none of the act's specific exceptions to required public disclosure, we assume that you intend to invoke section 3(a)(1) by asserting that the release of the first category of names will invade the privacy of certain officers by placing them in a false light. Section 3(a)(1) of the act protects "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." False-light invasion of privacy was discussed at length in Open Records Decision No. 579 (1990) (copy enclosed). As noted in that open records decision, the gravamen of a false-light privacy complaint is not that the information revealed is confidential, but that it is false. Therefore, an exception to the Open Records Act focused on the confidentiality of information does not embrace this particular tort

doctrine. If, however, portions of the complaint at issue do in fact contain inaccurate or untrue allegations, there is no reason that the department may not also release, along with the requested documents, other supplemental information that explains why and to what extent the information is inaccurate or that otherwise clarifies the information contained in the records at issue. The department must nevertheless release this information.

You have also not raised any specific exception to disclosure with regard to the second category of information. You have not explained how the release of the officers' names to the public would be "detrimental" to the investigation, nor do you contend that the current investigation is of a criminal nature or that the officers in question are unaware of the current investigation. If a governmental body does not claim an exception or otherwise fails to show how an exception applies to requested records, it will ordinarily waive the exception unless the information is deemed confidential by the act. *See* Attorney General Opinion JM-672 (1987). In this instance you have not met your burden under the act, nor is it apparent from the face of the complaint in question that the deleted names of the officers are confidential for purposes of section 3(a)(1). Accordingly, the department must release complaint in its entirety.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-348.

Yours very truly,



Geoffrey Hennessey  
Assistant Attorney General  
Opinion Committee

GH/RWP/lmm

Ref.: ID# 16326

Enclosures: Open Records Decision No. 579

cc: Mr. A. J. Giametta  
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